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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No. 4779 of 2006

PETITIONER

Sundermani Patel,
S/o. Shri Fatteram,
Aged about 63 years, R/o. Village Nawapara, (Dabhara), Tahsil Dabhara, District Janjgir-Champa (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh
Through its Secretary,
Water Resources Department, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

2. Collector,
Janjgir-Champa (C.G.)

3. Chief Engineer,
Water Resources Department, Bilaspur (C.G.)

4. Superintending Engineer, Minimata Hasdeo Bango Canal Project, Water Resources Department, Janjgir, District Janjgir-Champa (C.G.)

5. Executive Engineer,
Minimata Hasdeo Bango Canal Project, Water Resources Department, Division No.4, Dabhara, District Janjgir-Champa (C.G.)

Present: Shri Amrito Das, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned G.A. for the State of Chhattisgarh and its authorities.

ORAL ORDER
(Passed on 11th September, 2006)

The grievance of the petitioner, in brief, is this:

The State in exercise of eminent domain power has acquired 0.247 acres out of 0.61 acres of land comprised in Khasra No.917 situated at

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P.H.No.10, Village Dabhara, Tahsil Dabhara, District Janjgir-Champa under the provisions of Land Acquisition Act, 1894, but, the respondents State Authorities highhandedly and without authority of law are constructing canal across the left out land in Khasra No.917 which is not acquired at all. So alleging, the petitioner has sought for mandamus commanding the respondents to adequately compensate the petitioner for the use of the land which is not acquired as per approved market value and also to pay damages for the deprivation of the property of the petitioner without recourse to law with interest @ 18% per annum.

(2) The dispute brought before this Court by way of this writ petition for more than one reason cannot be entertained. Firstly, the Court cannot direct the State and State authorities to acquire the land. Whether the land in question is required for any public purpose or not should be left to the Government to decide and if it want the same for any public purpose, then, to initiate appropriate proceedings under the Land Acquisition Act, 1894 or any other enabling provisions. The eminent domain power vested in the State Government cannot be directed to be exercised in a particular manner or method. If the Court were to do so, it would be outstepping its legitimate jurisdiction of jurisdictional review under Article 226 of the Constitution. But, if the State and State Authorities without recourse to law without acquiring the land either under the land acquisition Act or any other enabling provisions highhandedly take over or use the private land, it is for the concerned owners of such land to workout their legal remedies by way of private law review remedies like declaration, injunction and damages, as the case may be, to suit their all grievances. The High Court in such situation cannot be converted into a civil Court to adjudicate upon such issues and grant the remedies of declaration, injunction and

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damages. That is exactly what the petitioner has sought in this writ petition though it is not couched in such terms.

(3) In the result, I dismiss the writ petition, however, reserving liberty to the petitioner to avail of private law review remedies indicated above before the jurisdictional civil Court. No costs.

Sd/-
Chief Justice

Brej/sb